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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARYMr. William E. Kennard, Chairman  
Federal Communications Commission  
Office of the Secretary  
Washington, DC 20554

Dear Chairman Kennard,

It has come to my attention that the FCC is proposing actions that undermine Congressional intent to assure that telecommunications equipment and services are accessible to people with disabilities. In the current FCC Notice of Proposed Rulemaking there are changes that will seriously affect the safety and welfare of hard of hearing and deaf citizens. I am gravely concerned about these actions. I am profoundly hard of hearing and rapidly approaching deafness. Like all persons with hearing loss, my dependence upon up to date accessible telecommunications grows daily. The prospect of losing communication access afforded by current and advancing technology is the reason I am writing to you today.

When Congress gave the Access Board the authority to develop guidelines for people with disabilities, it indicated that the FCC guidelines must be consistent with those recommended by the Access Board. It is unconscionable that the FCC is leaning toward reversing congressional intent to assure communication accessibility for deaf and hard of hearing people. Without this we cannot continue to be productive citizens in the areas of employment, government, community affairs, family and social life.

The first issue I am concerned about is the FCC's indecision as to whether the Board's well thought out and pertinent guidelines should be applied to service providers as well as to manufacturers. It is of prime importance that the FCC adopts the Access Board guidelines for both manufacturers *and* service providers. I experienced a problem a year or so ago when shopping for a cell phone that would be compatible with my portable TTY. I wanted this to use when driving in case I had an accident or mechanical problems. The service providers did not understand the compatibility importance and showed no interest or desire to assist me. As a result I spent a great deal of time looking for an appropriate product and eventually purchased one that is of minimal use. Problems such as this and more serious ones will become the norm if the FCC does not provide definitive wording to ensure that manufactures *and* providers understand, accept, and fulfill access responsibilities and obligations in designs and marketing of new equipment.

A second issue of concern is that the FCC has introduced a new means test that undermines the intent of the "readily achievable" concept adopted from the Americans with Disabilities Act (ADA) by Congress in formulating the Telecommunications Act.

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This term gives entities the right to demonstrate whether accessibility changes are too difficult to make or would involve an unreasonable financial burden. The FCC deviates from this standard by its intention to add "cost recovery" as a benchmark. This deviation will destroy the intent of the Telecommunications Act, weaken the protection offered by the ADA, and adversely affect millions of disabled Americans. Case by case demonstration of whether an action is too difficult or too expensive for manufacturers and providers to make should be retained as the single qualifying standard.

A third issue concerns the FCC proposal for a fast track complaint process that provides an 800 number for consumers to use in directing complaints to the FCC for an initial review. Supposedly within five days consumer complaints will be resolved or passed on to a more formal complaint process. No time frame for resolutions forwarded to the formal complaint has been suggested. The FCC proposes that there will be no filing fees for consumers to pay for complaints that are ultimately directed against manufacturers or service providers. Although this seems to be a consumer friendly approach, there is a downside in that *only* if the FCC permits, can the complainant invoke this procedure. By so doing, this means that the consumer will not have the right to take a case to court *if* the FCC opposes the action. This is unfair to the consumer for at that point he is denied the right to the court system.

A fast track action is commendable, but resolution within five days is unrealistic. Companies need time to research their documents and should have the right to ask for an extension of thirty days. A more reasonable time frame than a five day turn around can, in many instances, result in resolution without having to refer the complaint to the advanced complaint level, thus increasing the possibility of completing the process more quickly for all concerned.

A fourth issue that concerns me is that the proposed FCC rules omit "enhanced services" from coverage under Section 255. This action would be particularly damaging to people with hearing loss. Voice mail and automated voice response systems, typical enhanced services, are common place now. Second and third generations of these types of enhanced services will be the norm within a short time. Hard of hearing people are stymied by automated voice response services that are difficult even for hearing people to follow and understand. There needs to be a default to repeat the series of instructions without having to hang up and redial for a second review. Those of us who use the relay service for TTY calls to Voice numbers are unable to tell the Communication Assistant (CA) in advance what category/department of call we are making since we don't know whether a voice response system will answer nor what its menu will include. When this system answers the CA must repeat the choices and redial the number. All automated voice response systems should include an automatic out directing the caller to a human being.

The solution for these problems is not deletion of enhanced services, but rather refinement of those now in use, with firm policies to ensure that current and forthcoming technology will be accessible to people with hearing loss. Satisfactory resolution of this

issue is paramount to the welfare of people who do not hear well. It impacts our educational, employment, financial, safety, and general well being.

Chairman Kennard, I implore you to stand fast in recommending that the Federal Communications Commission adheres to the recommendations of the Access Board. By so doing you will support the vital communication needs of hard of hearing and deaf people throughout the nation. It is crucial that we preserve optimum telecommunication accessibility in the hearing world..

Sincerely,



Joan Andrews